

### **Remarks**

Claims 1-3, 5-22, and 24-33 are pending in the application. By this Reply, claims 1, 14, 18, 28, and 30 are amended, and new claims 32 and 33 are added. No new matter has been added. Applicants respectfully reconsideration of the pending claims in view of the foregoing amendments and following remarks.

In the Office Action, Claim 24 was rejected under 35 U.S.C. § 102(b) over U.S. Patent No 6,290,728 to Phelps et al. (hereinafter "Phelps"). Applicants respectfully traverse this rejection.

Regarding independent claim 24, Phelps does not disclose or suggest a stent comprising, *inter alia*, a plurality of "end struts being radially thinned along their lengths relative to the main body." Instead, Phelps discloses various bypass stents, including at least one stent (FIG. 11) that appears to have legs 30 expanding outwardly from the main body of the stent 34. While the legs appear to taper along their lengths (i.e., circumferential tapering), Applicants submit that they are not radially thinned along their lengths when the stent is in a radially-collapsed configuration, as recited in claim 24. Furthermore, Phelps does not disclose any such radial thinning in its written description.

The examiner disagrees with Applicants' argument, but does so only in reliance on the perspective view of the stent in FIG. 11. Indeed, Applicants submit that the radial thinning allegedly shown in FIG. 11 is not discernible to the human eye. Moreover, Applicants surmise that the examiner is aware of MPEP § 2125, which states as follows:

When the reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on measurement of the drawing features are of little value. See *Hockerson-Halberstadt, Inc. v. Avia Group Int'l*, 222 F.3d 951, 956, 55 USPQ2d 1487, 1491 (Fed. Cir. 2000) (The disclosure gave no indication that the drawings were drawn to scale. "[I]t is well established that patent drawings do not define the precise proportions of the elements and may not be relied on to show particular sizes if the specification is completely silent on the issue.").

Indeed, Phelps does not disclose that the drawings are to scale and is silent as to dimensions. Thus, the examiner's arguments based on any measurement of the

drawing features of Phelps may not be relied upon for the alleged disclosure of radial thinning. Accordingly, the § 102 rejection of claim 24 based on Phelps should be withdrawn.

In addition, claims 1-3, 5-17, 25, 26, and 28-31 were rejected under 35 U.S.C. § 103(a) over Phelps in view of U.S. Patent No. 6,241,762 to Shanley. Additionally, claims 18-22 and 27 were rejected under 35 U.S.C. § 103(a) over U.S. Publication Number 2004/0186555 by Bonsignore et al. (hereinafter "Bonsignore") in view of Shanley. Applicants respectfully traverse these rejections.

Independent claims 1, 14, 18, and 28 have been amended to recite a stent having a main body including a plurality of support members extending about a circumference of the main body and defining a plurality of cells, and an end structure adapted to be flared relative to the main body and including a plurality of struts, wherein each strut has a first end coupled with one of the ends of the main body and a second end free of the main body and distal from the main body relative to the first end. Independent claim 30 has been amended to recite a method for implanting a stent including positioning the stent at a junction between a lumen of a first vessel and a lumen of a second vessel such that the main body is located within the first vessel and the end structure extends into the second vessel.

Applicants submit that Phelps, Shanley, and Bonsignore, independently and in combination, fail to disclose or suggest the features of independent claims 1, 14, 18, 28, and 30, as amended. Further, claims 2, 3, 5-13, and 25, which depend from claim 1, are allowable for at least the same reasons that claim 1 is allowable as well as for their own unique features. Additionally, claims 15-22 and 26, which depend from claim 14, are allowable for at least the same reasons that claim 14 is allowable as well as for their own unique features, and claim 29, which depends from claim 28, is allowable for at least the same reasons that claim 28 is allowable as well as for its own unique features. Accordingly, Applicants request that the § 103 rejections of claims 1-3, 5-22, and 25-31 be withdrawn.

In view of the foregoing amendments and remarks, applicants respectfully request prompt examination of this application and timely allowance of the pending claims.

The Office Action contains characterizations of the claims and the related art with which applicants do not necessarily agree. Unless expressly noted otherwise, applicants decline to subscribe to any statement or characterization in the Office Action.

If the Examiner believes a telephone conversation might advance prosecution, the Examiner is invited to call Applicants' undersigned attorney at 617-933-4444.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 02-3038.

Respectfully submitted,

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